In the High Court of Punjab and Haryana, Chandigarh.

C.W.P.No.15104 of 2005

Date of Decision: 26.3.2007

Shakuntla

…Petitioner.

Versus

State of Punjab & Others.

…Respondents.

CORAM: HON'BLE MR.JUSTICE M.M.KUMAR
HON'BLE MR.JUSTICE RAJESH BINDAL

Present: Mr.P.K.Goklaney, Advocate
for the petitioner.

Mr.Anmol Rattan Singh, Additional Advocate General, Punjab for the respondents No.1 to 3.

None for the respondent No.4.

JUDGMENT

M.M.KUMAR, J. (ORAL)

The prayer made by the petitioner in the instant petition is to issue direction to the respondents to count her entire service as qualifying service for the purpose of pensionary benefits.

It is undisputed that the petitioner had joined the Malwa Khalsa Senior Secondary School, Ferozepur City on 8.7.1988 which is a Privately Managed Recognized Aided School. She retired from service on 31.8.2000 on attaining the age of superannuation. The services of the petitioner were regularised on 31.12.1990 with effect from the date of her initial appointment i.e. 8.7.1988. However, the contributory provident fund of the petitioner was

deducted by the Managing Committee from 1.7.1991. It is asserted that she had requested the Management that on completion of her probation period of two years, the contributory provident fund may kindly be deducted from her salary which was to be commenced on 8.7.1990. The request of the petitioner was allowed and the petitioner was asked to deposit the amount of contributory provident fund along with interest from the date when she completed her probation period. Accordingly, she deposited the contributory provident fund along with interest for the period from 1.7.1990 to 30.6.1991 vide voucher No.14 dated 18.1.2000. There is some departmental correspondence on 28.6.2000 between respondents No.2 and 3, which led to the writing of letter dated 6.9.2001 issued by respondent No.2 i.e. the Director, Public Instructions(S), Punjab, directing the District Education Officer (S), Ferozepur, to send the photocopy of all the salary bills of the petitioner as a proof of deduction of contributory provident fund amount so that further action could be taken. The matter remained pending with the department and no decision was taken. The petitioner served a legal notice on 1.10.2004 (Annexure P3) and on account of apathy of the respondents, she filed Civil Writ Petition No.19516 of 2004 which was disposed of on 14.12.2004 by directing the respondent No.2 i.e. the Director, Public Instructions (S), Punjab, to decide the legal notice by passing a speaking order. Accordingly, the respondent No.2 had passed the order dated 8.6.2005 (Annexure P5) which is subject matter of challenge in the instant petition.

The petitioner has claimed that she is entitled for release of benefit of pension in accordance with the provisions of Punjab Privately Managed Recognized Aided Schools Retirement Benefit Scheme, 1992 (hereinafter referred to as "the Scheme"). Under Clause 6 of the Scheme a person is required to have ten years as qualifying service which is to be counted from the date he starts contributing towards contributory provident fund. It has

come on record that the petitioner was allowed to deposit the contributory provident fund in respect of the period from 1.7.1990 to 30.6.1991. The period of ten years will necessarily start from 1.7.1990 and the petitioner has more than ten years service till the date of her superannuation on 31.8.2000.

After hearing learned counsel for the parties, we find that the claim made by the petitioner is covered by Clause 6 of the Scheme as she fulfilled the necessary qualifying service of ten years having contributed to the provident fund with effect from 1.7.1990. Therefore, the writ petition deserves to be allowed. Accordingly, order dated 8.6.2005 (Annexure P5) is quashed. The respondents No.1 to 3 are directed to calculate the amount of pension of the petitioner and all other retiral benefits within a period of two months from the date of receipt of certified copy of this order. The entire service rendered by the petitioner be considered as qualifying service for the purpose of pension and other pensionary benefits. If the amount is not paid as per the directions issued, then the petitioner shall be entitled to interest at the rate of 8% per annum from the date the payment was due till the date it is actually paid.

Petition stands disposed of in above terms.

(M.M.KUMAR)
Judge

March 26, 2007 **(RAJESH BINDAL)**
dkb **Judge**